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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/915,408	07/26/2001	Jochen Bollaender	1697	7027

7590 07/15/2003

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Huntington, NY 11743

EXAMINER

HARRIS, STEPHANIE N

ART UNIT	PAPER NUMBER
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3636

DATE MAILED: 07/15/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

OOS

Office Action Summary	Application No.	Applicant(s)
	09/915,408	BOLLAENDER ET AL.
	Examiner Stephanie N. Harris	Art Unit 3636

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 23 June 2003.
- 2a) This action is FINAL. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 1 and 5-12 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) Claim(s) _____ is/are allowed.
- 6) Claim(s) 1 and 5-12 is/are rejected.
- 7) Claim(s) _____ is/are objected to.
- 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) The proposed drawing correction filed on _____ is: a) approved b) disapproved by the Examiner.
 If approved, corrected drawings are required in reply to this Office action.
- 12) The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All b) Some * c) None of:
1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
 a) The translation of the foreign language provisional application has been received.
- 15) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 6/23/03 has been entered.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 1 and 5-12 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Regarding claim 1, it is unclear when the carriage is not in an approximately horizontal position. It appears from the specification that the carriage is not in an approximately horizontal position when the carriage is pushed in. However from the drawing it appears that the carriage (14) is still in a horizontal position as seen in Figure 6. The "approximately horizontal position" and "not approximately horizontal position", terminology, which appears throughout the claims, is unclear and confusing. The

Examiner suggests that the "pushed in position" and "pulled out position" terminology be used to keep the claims consistent and clear.

Applicant discloses in claim 1 that the locking member is located in a hole in the carriage when the carriage is in a horizontal position and the locking member moves into the hole of the carriage when the carriage is not in a horizontal position. It is unclear how the locking member can move into a hole in which it is already located.

The phrase "...at a slant relative to a direction of displacement of said carriage...", is unclear thus rendering the claim indefinite.

Claim 1 recites the limitation "said housing" in line 16. There is insufficient antecedent basis for this limitation in the claim.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1, 9, and 10, as best understood, are rejected under 35 U.S.C. 102(b) as being anticipated by Lancaster et al. (USPN 5897089).

Lancaster et al. discloses a holding device for a beverage container that can be installed in an arm rest (Abstract). The holding device comprises a carriage (34) that is guidable as a drawer and can be displaced back and forth between a pushed-in and

pulled out position (Abstract). A beverage container can be inserted in the pulled out position as seen in Figure 2. A guide means (38) is used for guiding the carriage during its displacement between the pushed-in and pulled out positions as seen in Figure 3. A gravity locking device which contains a gravity locking member (46) is used to lock the carriage in the pushed in position as seen in Figures 4 and 5.

The gravity locking device (46) moves into a locked position as a result of gravity when the carriage is pivoted into a position that is not approximately horizontal or pushed in as seen in Figure 3. The gravity locking device (46) moves into an unlocked position as a result of gravity when the carriage is pivoted into an approximately horizontal or pulled out position at a slant relative to a direction of displacement of the carriage as seen in Figures 4 and 7. The gravity locking member (46) is located in a hole in the carriage (34) and when the carriage is an approximately horizontal or pulled out position it does not engage the housing (36) as seen in Figures 3 and 4. When the carriage is pivoted into a position that is not an approximately horizontal or pushed in position the locking member moves in the hole of the carriage into an opening of the housing to lock the carriage immovably in the housing (36) as seen in Figures 3-5.

Regarding claims 9 and 10, Lancaster et al. discloses a holding device (22) with an insertion opening as seen in Figure 3. The holder has an adjusting element (102), which movably mounted on the holder so that the size of the insertion opening is adjustable. The holder also has a securing device (90) with a catch device (96) for the adjusting element as seen in Figures 4 and 5.

Allowable Subject Matter

Claims 5, 6, 7, 8, 11, and 12 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, second paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Stephanie N. Harris whose telephone number is 703-305-1838. The examiner can normally be reached on Monday-Friday from 9am to 5pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Peter Cuomo, can be reached on (703) 308-0827. The fax phone number for the organization where this application or proceeding is assigned is 703-305-7687.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-1113.

SNH

July 2, 2003



Peter M. Cuomo
Supervisory Patent Examiner
Technology Center 3600